

California Rehabilitation Oversight Board Minutes September 4, 2008 Meeting

The California Rehabilitation Oversight Board met in open session on September 4, 2008, at the California State University Alumni Center, 6024 State University Drive East, Sacramento, California 95819.

Board members: Present at the meeting was David Shaw, Inspector General (Chairman); Matthew Cate, Secretary, Department of Corrections and Rehabilitation (CDCR); Diane Hurley, Consultant, Adult Education Office, California Department of Education (Designee for Superintendent of Public Instruction); José Millan, Vice Chancellor, California Community Colleges (Designee for Chancellor, California Community Colleges); Renée Zito, Director, State Department of Alcohol and Drug Programs; Jean Barawed, Assistant Deputy Director, Long Term Care Services (Designee for Stephen Mayberg, Director, Department of Mental Health); Susan Turner, Professor, University of California, Irvine (President of the University of California appointee); Bruce Bikle, Professor, California State University, Sacramento (Chancellor of California State University appointee); Loren Buddress, Chief Probation Officer (Senate Committee on Rules appointee). Absent from the meeting was Gary Stanton, Sheriff, Solano County (Governor appointee) and William Arroyo, Regional Medical Director, Los Angeles County Department of Mental Health (Speaker of the Assembly appointee).

Office of the Inspector General staff: Barbara Sheldon, Chief Counsel; Laura Hill, C-ROB Executive Director; and Ann Bordenkircher, Board Secretary.

CDCR staff: Carole Hood, Chief Deputy Secretary, Adult Programs, and Deborah Hysen, Chief Deputy Secretary, Facility Planning, Construction and Management.

Additional speakers: Barry Krisberg, Ph.D., National Council on Crime and Delinquency, and Clark Kelso, Federal Receiver, California Prison Health Care Receivership Corp.

Item 1. Call to Order

Chairman Shaw called the meeting to order at 9:43 a.m.

Item 2. Introductions and Establish Quorum

Chairman Shaw introduced participating staff from the Office of the Inspector General and thanked the board members for their attendance. Board members introduced themselves.

Item 3. Review Agenda

The Chairman reminded board members that the meeting was informational only with a number of speakers invited to present on topics of special interest to board members. Chairman Shaw also advised the board that Martin Hoshino, Executive Officer, Board of Parole Hearings, was unable to attend and would instead present at the November board meeting.

Item 4. Review and Approval of Prior Minutes

Board member Loren Buddress commented that under Item 8. Future Agenda Items of the July 8, 2008, pending minutes, he asked for both Dr. Krisberg (National Council on Crime and Delinquency) and Adam Gelb (Pew Charitable Trust) to address the board, and asked that the July 8, 2008 minutes be revised to read “and” rather than “or.” With motion made and seconded, the minutes were approved with the aforementioned revision.

Item 5. Executive Director Update

Laura Hill, C-ROB Executive Director, advised the board that Senate Bill 1684 was signed by the Governor on July 18, 2008. This bill directly affects the board’s work by changing the biannual reporting dates from January 15 and July 15 to March 15 and September 15.

Item 6. In-Prison and Reentry Programs Models

Carole Hood, Chief Deputy Secretary for Adult Programs, CDCR, covered two main themes during her presentation: (1) the status of rehabilitation programming, and (2) a video preview in anticipation of the C-ROB board visit to Solano’s Proof Project in November. The board and public watched a 7 ½ minute DVD entitled “Pathways to Rehabilitation.”¹ Afterwards, Ms. Hood discussed CDCR’s attempts to directly connect the community with reentry planning envisioned by the Governor’s Rehabilitation Strike Team, the Expert Panel, and AB 900. Ms. Hood reminded the board that the reentry plans follow the California Logic Model, which incorporates eight evidence-based principles and practices in correctional programming, targeting the highest risk offenders. Ms. Hood stated that a key factor is getting accurate risk and needs assessments so program interventions can be designed based on those risks and needs. The COMPAS tool is used to gather this data. Ms. Hood said the California Static Risk Assessment is to be integrated within the COMPAS tool in the Fall and that CDCR is also working with the Department of Justice to be able to download information directly from inmate records to autopopulate the static risk factors. Various areas, such as criminal history and associations, familial or relationship issues, substance abuse, anger, aggression, hostility, deficits in education and vocational abilities, will be interpreted into a case plan, and then the individual can be placed into the right programming.

Ms. Hood explained that all of the above planning becomes more complicated when it is brought together in a constrained prison environment. There are large populations getting up, eating, moving to programming or to work all at the same time, and then returning to housing at the same time. Often programming is in a completely separate location from where the housing is so that safety and security concerns become an issue. Ms. Hood said another complexity is varying lengths of stay, so it is difficult to figure out how to provide appropriate programming for an individual who might be there for six months or less versus a lifetime.

Ms. Hood articulated that the program currently under consideration is similar to a college day with two-hour program slots. There is also thought towards integrated programming so space can be shared either in modulars or partitioned multi-use space where smaller rooms could be created. Curriculum relating to criminal thinking, anger management, and relationships tends to be 40- to 48-hour programming that

¹ “Pathways to Rehabilitation” can be viewed at: http://www.cdcr.ca.gov/News/2008_Press_Releases/index.html

could be interspersed within these two-hour programming days. Ms. Hood displayed a graphic that depicts the rehabilitation track with designs for six months or less, 6 to 12 months, 12 to 24, 24 to 36, and 36 months or more, each with its own programming sequence divided into rehabilitation or life skills tracks. Ms. Hood said that some programming would include work assignments.

Ms. Hood concluded the presentation by talking about reentry facilities where CDCR is looking into moving the treatment team as opposed to moving individual inmates to decrease individual movement. She said that reentry facilities are designed to be able to provide more intensive rehabilitation programming, and because individuals are located closer to the home community, there is the ability to involve the community in the treatment planning, with potential family involvement in programming such as parenting and familial relationships.

There was a discussion between board members and Ms. Hood where it was suggested that CDCR should look at the inmate's skills, abilities or aptitude as opposed to solely looking at their deficits. Other comments were to slides that failed to mention mental health issues, which appears to be on the increase, often linked with substance abuse problems.

Public comments were taken at the conclusion of Ms. Hood's presentation.

Susan Lawrence, M.D., Executive Director, The Catalyst Foundation, commented favorably on the video showing removal of the disruptive elements from the yard, stating this is absolutely critical. Dr. Lawrence stated that CDCR's efforts would be enhanced by utilizing the input, experience and knowledge of the prisoners themselves, causing a positive focus and reinforcement, incentives and voluntary commitment to behave honorably.

Patrick Wilson, a taxpayer and former inmate, stated that CDCR must change from a punishing institution to one that tries to help overcome incarceration. Mr. Wilson offered that one of the most positive things to achieve rehabilitation would be to reduce the violence in prison, preferably by housing inmates according to race and affiliation. Mr. Wilson commented that the "Pathways to Rehabilitation" video only depicts a level one yard and doesn't reflect the tiers at San Quentin, High Desert or Calipatria where inmates do not necessarily get along. Mr. Wilson suggested asking the three-judge panel and CDCR leadership for a waiver to allow housing of inmates in accordance with race and affiliation in an attempt to see how violence would drop.

David Warren, Lobbyist, Taxpayers for Improving Public Safety restated to the board the value of religious programming for the inmates, which is excluded from CDCR's daytime programs. Mr. Warren stated that religious programming teaches ethics, morals and values and believes it to be as successful as many other programs. Mr. Warren said inmates are eager to go to class, but programming is constantly interrupted. Mr. Warren was also concerned that life skills such as welding, diving, plumbing, carpentry and truck driving are not available to inmates. Mr. Warren believes these are marketable skills that would assist inmates in succeeding in the outside world. Mr. Warren said that approximately 25% of current CCPOA membership is set to retire within the next two years, creating critical staff shortages, further impacting access to programming. Mr. Warren stated integration is necessary to break the back of gangs that control the violence in prisons. Mr. Warren closed by stating that inmates are generally secure in their present institutions but are afraid for their security when reclassified and sent to another prison.

Ray Miller, Consultant, Organizational Research, spoke first to the lack of trust between probation and the parolee. He said that many community members view the courts as a threat and that victims do not believe the offender has an understanding of the impact the crime has had on them and the community. Mr. Miller stated crime starts in the community and then the criminal returns to the community. He said he would like to see the community involved with the planning stages for reentry facilities. Mr. Miller questioned where probation is in all the planning and how it is all going to be put together.

Item 7. Presentation on Overcrowding in California Prisons

Barry Krisberg, Ph.D., National Council on Crime and Delinquency, began his presentation with a PowerPoint® presentation revealing data on crime and corrections in California. He stated that overall, while crime has decreased since reaching a high point in 1995, arrests have increased, as have the number of parolees, creating overcrowding in the California prisons. Dr. Krisberg said that while the prison population has continued to grow, the system has been modest in terms of adding additional space. One chart compared an occupancy rate of 83 percent in 1976 to 191 percent occupancy in 2006, reflecting the most overcrowded prison system in the nation, with substantial budget increases.

Dr. Krisberg talked about the Expert Panel, which was comprised of experts in the field of corrections. He said that from his point of view, the Expert Panel devolved to those members of the panel that were in sync with what CDCR wanted where the members who thought in somewhat a different direction were not used by CDCR again.

Dr. Krisberg said that after the Governor called for a special session of the Legislature, Dr. Krisberg was asked to pull together a group of experts in California to give the Legislature guideline on how to reduce the prison population. The result of that group was a report entitled “NCC Task Force on Prison Crowding.”² That report consisted of four main recommendations: (1) move 4,500 non-serious, low-risk women to community-based facilities; (2) reform the parole system; (3) create an adult corrections challenge grant program; and, (4) establish a sentencing policy commission. Instead of accepting these recommendations, AB 900 was created. Dr. Krisberg believes AB 900 was created on a series of fundamental lies that (1) AB 900 was needed to stave off the involvement of the federal courts; (2) there were no practical alternatives to reducing the prison population other than what was in AB 900; and (3) a series of lies about rehabilitation and what impact it would have on the prison population.

Dr. Krisberg said California went from less than 700 women in prison, when determinate sentencing was passed, to close to 12,000 currently. He stated these women are a low-risk, high-needs population that ought not to be in the prison system. However, the proposal ran afoul of union opposition. Dr. Krisberg touched on the subject of parole indicating that 90,000 people are entering the prison every year on parole violations. California is one of the few states where parole is used on top of being incarcerated. Dr. Krisberg opined that if the community is not engaged in the penal system, you gravitate to more incarceration. He went on to say that California has allowed adult probation to die. Probation is working well in several states; Oregon is a good example. He briefly talked about sentencing reform, which is currently contradictory, overlapping, and duplicative. Dr. Krisberg stated the state should create an independent panel to look at and then prioritize the needed reform. There are 21 states with sentencing commissions, some with overwhelming success stories.

² “NCC Task Force on Prison Crowding” is located at http://www.nccd-crc.org/nccd/pubs/2006_ca_taskforce.pdf

Dr. Krisberg spoke to rehabilitation, stating that it must be accomplished through reentry rather than in-prison rehabilitation. Rehabilitation is also reliant upon incentives and that rehabilitation programs themselves are grossly oversold. He stated that there is an industry of people selling treatment, but little in the way of independent research with supporting results. He also said that CDCR cannot have an aggressive rehabilitation effort without good, rigorous and objective research. Dr. Krisberg cautioned against relying on someone's approved list of programs, saying the biggest issue is the absence of experimental designs and careful testing. Dr. Krisberg stated that no other state has the prison gangs or the number of prisoners that California has, so it becomes difficult trying to extrapolate what they are doing in a smaller state. He stated that in the dynamics of organizational change, the person running the organization has to articulate a clear vision over and over and not let the traditional interest groups dominate, whether it is public employee unions or victims groups.

Dr. Krisberg said there are no easy answers when facing an enormously dysfunctional bureaucratic situation. He would change the funding equation and provide more to the counties and sheriffs to do as much as they could do. He said that the Legislature is not listening to probation chiefs or sheriffs, but instead, it listens to state associations, so it receives a skewed picture of what is needed.

Board member Loren Buddress interjected that probation at the county level can have a substantial reduction in probation violations and in recidivism overall, but only when the county has appropriate resources. He said that probationers and parolees have identical needs; housing, employment, educational, substance abuse and mental health services, and family reunification services. Chief Buddress said that San Mateo County is in the process of putting together a reentry program for probationers and believes it will be effective if the state gives the county appropriate fiscal resources to do what needs to be done to reduce victimization and reduce recidivism.

Public comments were taken at the conclusion of Dr. Krisberg's presentation.

Patrick Wilson, a taxpayer and former inmate, commented that while agreeing with Dr. Krisberg, he felt there were three other subtle lies: law, justice and crime are inaccurately defined in the legal system and is what generates all the sentencing problems. Mr. Wilson said these three definitions should be redefined in order to straighten out the errors that occur in the legal and political systems. He stated that the legislators do not tie their convictions to a moral law and are not held to any standard.

Susan Lawrence, M.D., Executive Director, The Catalyst Foundation, stated that the Honor Program is prisoner-initiated and believes programs that are developed by those who use them have a higher chance of success. The Honor Program is run on a prisoner level by people who are never getting out of prison, but play a critically important role in the stability of the yards and prison environment so that effective rehabilitation occurs.

Ray Miller, Consultant, Organizational Research, commented that the Legislature needs to make a commitment either to punishment or treatment and stick to it as they both are not going to work. Mr. Miller said research shows probation started in 1905 and the current system is still set up the same way where the presiding judge appoints a probation officer and the county pays for it, yet the county has no control over anything. He said there is nothing to tie police, parole and corrections systems together. Mr. Miller believes a "new set of glasses" is needed. He stated treatment should be in the community as that is where the inmate started and that is where the inmate will return.

Item 8. California Prison Health Care Needs

Clark Kelso, Federal Receiver, California Prison Health Care Receivership Corp. (CPHCS) utilized a PowerPoint® to describe the current state of the receivership. Mr. Kelso gave an overview of CPHCS history, stating that it came into existence in 2006 by way of court order giving to the Receiver the same powers of the CDCR Secretary with respect to medical care and taking those specific powers away from the CDCR Secretary. The initial receiver, Robert Sillen, conducted an assessment of conditions in the prisons and assembled approximately 700 pages worth of planning documents on how to bring prison medical care up to constitutional standards. Mr. Kelso explained that in late 2007, the court decided to go in a different direction and appointed Mr. Kelso to replace Mr. Sillen. The lengthy planning documents from the previous administration were reduced to a short plan of action referred to as a turnaround plan of action.³ Mr. Kelso has started to secure the necessary resources to implement the turnaround plan and is close to completing that task. He also stated his intent is to stay in place however long it takes to bring the system up to constitutional levels and then turn it back over to CDCR. Mr. Kelso anticipates the court will continue to monitor the state's progress for some period of time.

Mr. Kelso briefly touched on three other federal court cases⁴ that impact the Receiver's responsibilities through various court orders that direct the Receiver to coordinate the Receiver's programs with dental, mental health, and ADA compliance issues within the prison system.

Mr. Kelso stated that the term "constitutionally adequate" is somewhat vague. The court can formulate a general legal standard, but translating that legal standard into actual performance on the ground and in the field is rather difficult. The CPHCS is working closely with the OIG to have an evaluation of different characteristics of CPHCS' performance. The Receiver said the mission is to reduce avoidable morbidity and mortality and protect public health. One factor in meeting these goals is to provide timely access to safe, effective and efficient medical care, medications, treatment modalities, and specialists, when necessary. The Receiver expanded his statement to say that inmates should have a quick screening and assessment of their medical, mental and dental conditions on entry. He stated that a model process is being piloted at San Quentin currently with plans to implement that model in reception centers. Areas of concern to timely access involve movement of the inmate, escorts and off-site medical care.

The CPHCS is working with CDCR to accelerate a scheduling and patient inmate tracking system (the SOMS project). CPHCS is also implementing a standardized utilization management system, which is critical for controlling costs and ensuring consistency of care across the state. Another focused goal is the full continuum of healthcare services; improvement to primary care, delivery of chronic care, emergency response and specialty care and hospitalization. The Receiver explained that it has been noted that each of the 33 institutions do things differently, so there is a move towards consistency.

The Receiver's office is also working on health care staffing where vacancy rates were at 50% to 60% in some institutions. He stated that compensation levels were raised, job descriptions and clarifications changed, all of which helped increase hires. The goal is to fill 90% of the positions by the end of this

³ Available at <http://www.cphcs.ca.gov/>

⁴ *Coleman v. Schwarzenegger*, 2:90-cv-00520, U.S. District Court, Eastern District of California (mental health)
Perez v. Schwarzenegger, 3:05-cv-05241, U.S. District Court, Northern District of California (dental)
Armstrong v. Schwarzenegger, 4:94-cv-02307, U.S. District Court, Northern District of California (ADA compliance)

year. The Receiver stated that he would like to develop a regional tier of executive leadership to better manage health care at all institutions.

Additional goals mentioned by the Receiver are implementing quality assurance, continuous improvement programs, out-of-state community process facilities, a medical support infrastructure, which includes radiology and lab systems, telemedicine and a good pharmacy program.

Mr. Kelso said the largest construction project, at San Quentin, has started; the structural steel is up and they appear to be on schedule and slightly under budget. That facility should be completed in early 2011. There is some healthcare facility construction underway at four institutions. The biggest challenge in the construction program is anticipating the ultimate need at each of the institutions, which may be complicated by the expansion program. Mr. Kelso explained that seven long-term chronic care facilities will be built around the state, three in the north and four in the south. Each one will be able to serve around 1,500 inmates. He said that these 10,000 inmates will come from the existing 33 institutions freeing up beds and leaving behind a healthier adult institution by removing the sickest from those institutions. It is thought that all of these construction programs would be completed within four to five years.

The Receiver concluded his presentation by expressing the key to success is teamwork that provides quality care.

Mr. Kelso responded to questions from the board concerning construction locations near R.J. Donovan (San Diego), in Stockton at one of the juvenile facilities, Ventura County near Camarillo, and possibly Chino, Folsom, DVI, Solano and Whittier.

Public comments were taken at the conclusion of Mr. Kelso's presentation.

Ray Miller, Consultant, Organizational Research, commented that part of the problem with bureaucratic organizations is that someone answers to someone who answers to someone else. Mr. Miller was in favor of the Receiver's comments on developing regional tiers of executive leadership to better manage healthcare at all institutions.

Susan Lawrence, M.D., Executive Director, The Catalyst Foundation informed the board that the Honor Program at California State Prison, Los Angeles County, has great benefits to the health of prisoners. Founded in 2000, it was designed by prisoners who make voluntary commitments to abstain from violence, drugs, incarceration and gangs. Dr. Lawrence said that the first year alone, violence was reduced by 88%, weapons reduced by 85%, and the program saved taxpayers over 200,000 dollars. The Honor Program has operated without a single major violent incident in the past eight years. Dr. Lawrence believes the program has positive benefits to the mental health as well as the physical health of prisoners and staff alike.

David Warren, Lobbyist, Taxpayers for Improving Public Safety expressed concerns that while money is absolutely important and necessary for the Receiver's construction projects, that same money is being diverted from future rehabilitation programs. Mr. Warren stated that what the Receiver is essentially going to be building is a second CDCR. Mr. Warren stated an interest in the programming in these secondary facilities, which must be addressed in a timely manner. Mr. Warren believes the Legislature and the courts are not designing for future needs, which will dramatically change as the population ages.

There being no further public comments, Mr. Kelso made final comments by stating that perhaps in November, when C-ROB has its next meeting, he may have information on selected programming (rehabilitation, vocational, educational, and religious) within the healthcare facilities.

Item 9. CDCR Facilities Construction

Deborah Hysen, Chief Deputy Secretary, Facility Planning, Construction and Management, CDCR, updated the board on CDCR facilities construction by first addressing in-fill beds. Ms. Hysen stated that when she previously presented to the board, AB 900 was freshly passed and she presented a plan based on things that were known at that time. Ms. Hysen said the prison population was forecasted to have a significant upward trend, and 7.4 billion dollars was allocated for the construction. It has since been stated that the Receiver's program alone will require that dollar amount. Ms. Hysen said that the population trends have actually gone downward and have leveled off, so the department is looking at some policy reform initiatives to see what impact there would be on facility needs. Ms. Hysen stated that there are other considerations as well; the three-judge panel proceedings that could impact the prison population, and the propositions on the November ballot that are before the voters. Ms. Hysen said it is an intricate process to coordinate all of these things and believes there is not enough money to build the original AB 900 plan. Ms. Hysen said that CDCR has developed an integrated strategy plan⁵ that addresses all these factors. Within that report are segments entitled "phase one priority one" and "phase one priority two" to build up to 8600 beds with the allocations provided in AB 900. In phase one, there are four building sites; Estrella Correctional Facility, Kern Valley State Prison, North Kern State Prison and Wasco State Prison. The second two in phase one (CCI and High Desert) have language that will allow CDCR the flexibility to make certain that the facilities designed are in fact what is needed. Ms. Hysen stated that funds allocated for phase one is consistent with AB 900, and funding is not yet available for phase two. The department has requested technical cleanup language to the original AB 900 and the follow-on legislation (SB 81) and cannot proceed with project funding requests until those things are complete. Ms. Hysen advised that, like the Receiver, the department has asked for acceleration methods to be able to expedite construction.

Ms. Hysen moved next to the construction of reentry facilities which, through evidence-based design principles, are to provide the inmate with a means to migrate from a very heavy institution setting through a series of phases to return to the community.

Ms. Hysen utilized a PowerPoint® presentation to visually show the board population needs and the various kinds of facilities offered by level and specialized type.

Ms. Hysen advised the board that the infill process is in the middle of the environmental impact studies, still to be approved by the Public Works Board. Ms. Hysen said the department continues to meet with communities via town hall meetings, public workshops, meetings with boards of supervisors and city councils. As to the reentry side, Ms. Hysen mentioned that the department will have to acquire sites within the counties. She said siting agreements are required to be signed by September 18. Environmental studies have not yet begun on the reentry projects.

⁵ Integrate Strategy to Address Overcrowding in CDCR's Adult Institutions is available at: http://www.cdcr.ca.gov/News/docs/2008_06_18_REDUCE_overcrowding_Docs.pdf

Ms. Hysen concluded by discussing programming space which is designed into the infill projects and has been enhanced beyond what AB 900 projected. Ms. Hysen said funding for expansion of substance abuse space is available and is part of the effort being worked out with CDCR's Adult Programs Division.

Public comments were taken after Ms. Hysen's presentation.

Ray Miller, Consultant, Organizational Research, inquired if efforts are successful in reducing population, would that mean some facilities could be closed, and if so, which one? Ms. Hysen answered that in the foreseeable future she does not see a closure of prisons. Mr. Kelso interjected that his office and CDCR would monitor on an annual basis the success towards population reduction and measure that success to building needs.

David Warren, Lobbyist, Taxpayers for Improving Public Safety, stated his concern that the inmates in existing facilities will not have the same access to rehabilitative programming as will those moved to the new facilities. Mr. Warren also expressed concern about the conditions of portable and temporary building that are far beyond rehabilitation and yet the department is building new facilities without withdrawing the dangerous ones.

Ms. Hysen responded that although inmates have had to be placed in all available space to accommodate overcrowding issues, it is the department's intent to restore those locations back to their original function. Ms. Hysen also stated that the department successfully argued for the replacement of some existing dorm buildings, specifically existing dorm buildings at California Rehabilitation Center at Norco. Ms. Hysen stated further that all of the bathrooms in the largest CRC facility are being renovated. Ms. Hysen said that CDCR staff is aggressively looking at all of the prisons to determine infrastructure needs.

Item 10. Board of Parole Hearings Update

Chairman Shaw stated that while Martin Hoshino, Executive Officer, Board of Parole Hearings had previously agreed to present at today's meeting, budget hearings prevented him from doing so. Mr. Hoshino will be rescheduled for the November board meeting.

Item 11. Future board meeting schedule

Chairman Shaw focused the board on future meeting dates, stating that with the passage of SB 1684, the board's reporting dates had changed to March 15 and September 15. It was agreed that the board would meet on November 3, 2008, February 11 and March 2, 2009, allowing the report writing subcommittee time to gather information, and the board time to receive and review that report prior to a March vote.

Item 12. Future board meeting schedule

It was determined that the board would be invited to participate in a tour of the Proof Project at California State Prison, Solano in Vacaville on the morning of November 3. Laura Hill will check with Adam Gelb with the Pew Charitable Trust regarding his availability to attend a future board meeting.

Item 13. Public comment

All public comment occurred immediately after each speaker presented to the board.

Item 14. Adjournment

There being no further business, the meeting adjourned at approximately 3:45 p.m.

Board Secretary

Dated

(These Minutes are posted on the web at www.oig.ca.gov.)